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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/928,679 | 08/13/2001 | Susan A. Iliff | 20869 | 8167 |

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EXAMINER

BROWN, MICHAEL A

ART UNIT PAPER NUMBER

3764

DATE MAILED: 02/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/28,679

Applicant(s)

Susan A. Hiff et al

Examiner

Michael Brown

Group Art Unit

3264

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1-1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☒ Claim(s) 11-20 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
 - ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other. _____

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DETAILED OFFICE ACTION

Claim Rejections - 35 USC § 112

1. Claims 6-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, the phrase “suitable for removably connecting to the support member of the chair” renders the claim vague and indefinite. It is not clear if the aligned notches are removably connecting the support member to the chair. In claim 6, the phrase “for removably connecting to the supporting member of the chair” renders the claim vague and indefinite because it is not clear if the aligned notches are removably connecting the support member to the chair. In claim 7, there is a lack of antecedent basis for “the notched support”. In claim 7, it is not clear if the shield is attached to the support member. Throughout the claims the cross member has not been positively claimed. Thus, it would be improper to positively claim the cross member in one claim and recited the cross member as a functional limitation in a claim that depends from the claim that positively claims the cross member. In claim 10, it is not clear if the shield is attached to the chair. In claim 11, it is not clear if the clamping means is attached to a supporting member of the chair. In claim 11, it is not clear if the notched supports and the notch support are the same structural limitations. In claim 11, it is not clear if the clamping means is attached to a horizontally positioned supporting cross member of the chair. In claim 14, it is not clear if the two

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rectangular brackets are attached to the supporting cross member. For brevity purposes the additional 112 2nd paragraphs problems will not be listed. However, claims 18-20 have similar 112 2nd paragraph problems.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Edison.

Edison discloses in figures 1-3 a restraining apparatus for treating of animals (a safety shield) comprising a rigid planar member 14, the planar member is movable vertically (the chain 68 allows the planar member to be move vertically), a notched support (chain 68 has notches, which in this case is define as "hollow in an object, surface or edge") that is a plurality of notches (each link makes up a plurality of aligned notches in the chain), and a locking means 66.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-3 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Edison in view of Ricketts.

Edison discloses in figures 1-3 a restraining apparatus for treating animals (a safety shield) further comprising a handle 64. However, Edison does not disclose the rigid planar member being made of stainless steel. Ricketts teaches in figures 1-2 an animal restraint that can be made of stainless steel (col. 5, lines 6-11). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the shield as disclosed by Edison could be fabricated of stainless steel as taught by Ricketts. The stainless steel would be durable enough to hold an animal in place, yet it would also resist corrosion.

Allowable Subject Matter

6. Claims 11 and 18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

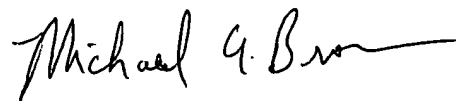
7. Claims 12-17 and 19-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bower and Dimick, each discloses an animal restraint device. Although each of these references is pertinent prior art, neither was used to reject any claims, in the first office action.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is (703) 308-2682.

M. Brown
January 21, 2003

A handwritten signature in black ink that reads "Michael A. Brown". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

**Michael A. Brown
Primary Examiner**